

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROSE GORDON,

Plaintiff,

v.

MARK ADAMS and AMANDA ADAMS,

Defendant.

3:08-cv-00200-LRH-RAM

ORDER

Before the court is plaintiff Rose Gordon's ("Gordon") motion to re-tax costs filed on April 2, 2010. Doc. #71. Defendants Mark Adams ("Adams") filed a response (Doc. #76) to which Gordon replied (Doc. #79).

I. Facts and Procedural History

On March 21, 2006, Gordon was involved in an auto accident with defendant Adams. As a result of the collision Gordon allegedly suffered injuries. On March 18, 2008, Gordon filed suit against the Adams alleging negligence. Doc. #1, Exhibit 1.

A jury trial was held on the matter from March 23, 2010, through March 25, 2010. See Doc. ##61, 62, 63. The jury ultimately found for defendant Adams (Doc. #64) and judgment was entered against Gordon on April 2, 2010 (Doc. #72). After judgment was entered in his favor, Adams submitted a bill of costs to the court, along with supporting memorandum, requesting \$8,300.75. Doc. #70. Thereafter, Gordon filed the present motion to re-tax costs. Doc. #71.

1 **II. Motion to Re-Tax Costs**

2 Adams requests \$8,300.75 in taxable costs as the prevailing party in the underlying
3 negligence action. Doc. #70. Gordon argues that Adams is requesting costs which are unauthorized
4 by statute or the local rules.

5 Pursuant to the Federal Rules of Civil Procedure and the Local Rules, the prevailing party is
6 entitled to reasonable costs associated with litigating the action. FED. R. CIV. P. 54(a); LR 54-1.
7 The taxation of costs is governed by 28 U.S.C. § 1920, which reads in its entirety:

8 A judge or clerk of any court of the United States may tax as costs the following:

9 (1) Fees of the clerk and marshal;

10 (2) Fees of the court reporter for all or any part of the stenographic transcript
11 necessarily obtained for use in the case;

12 (3) Fees and disbursements for printing and witnesses;

13 (4) Fees for exemplifications and copies of papers necessarily obtained for use in this
14 case;

15 (5) Docket fees under section 1923 of this title;

16 (6) Compensation of court appointed experts, compensation of interpreters, and
17 salaries, fees, expenses and costs of special interpretation services under section 1828
18 of this title.

19 A bill of costs shall be filed in the case and, upon allowance, included in the judgment
20 or decree.

21 In his bill of costs, Adams seeks \$1,537.70 in witness fees who attended trial and another
22 \$3,200 in additional expert fees for expenses associated with preparing testimony, as well as, expert
23 reports, and other pre-trial matters. Fees associated with witnesses are taxable under
24 28 U.S.C. § 1920. 28 U.S.C. § 1920(3). However, the recoverable costs for witnesses, both expert
25 and general fact witnesses, are limited to \$40 per day for the witness's attendance at trial or
26 deposition. 28 U.S.C. § 1821(b). A court may tax expert witness fees in excess of the limit set by

1 28 U.S.C. § 1821 only when the witness is court-appointed and essential to the proceedings, or the
2 recovery of all witness fees were explicitly authorized by contract. *Crawford Fitting Co. v. J.T.*
3 *Gibbons, Inc.*, 482 U.S. 437, 445 (1987).

4 Here, Adams's two testifying witnesses attended only a single day of the three day trial.
5 Further, the witnesses were not court ordered experts. Therefore, Adams may only recover \$40 per
6 witness, per day, for a total of \$80 in taxable witness fees. *See e.g., Crawford*, 482 U.S. at 455.
7 Accordingly, Adams is entitled to \$80 as taxable witness fees and the additional \$4,657.70 in
8 requested witness fees shall be denied.

9 The court finds that Adams's remaining requested costs, including expenses relating to
10 necessary copies obtained from third-parties (\$667.80), service of subpoenas (\$260.50), deposition
11 transcripts (\$2,160.75), filing fees in the United States District Court (\$350), and first appearance
12 fees in the Second Judicial District Court of Nevada (\$124), are reasonable and taxable under
13 28 U.S.C. §1920 and the local rules, and as such, Adams is entitled to recover these costs in full.
14 *See* 28 U.S.C. §1920; LR 54-4; LR 54-6. Therefore, Adams is entitled to total taxable costs in the
15 amount of \$3,643.05 as the prevailing arty in this action.

16
17 IT IS THEREFORE ORDERED that plaintiff's motion to re-tax costs (Doc. #71) is
18 GRANTED in-part and DENIED in-part.

19 IT IS FURTHER ORDERED that defendant is entitled to \$3,643.05 in costs as the
20 prevailing party in this action.

21 IT IS SO ORDERED.

22 DATED this 18th day of June, 2010.



23
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25 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE